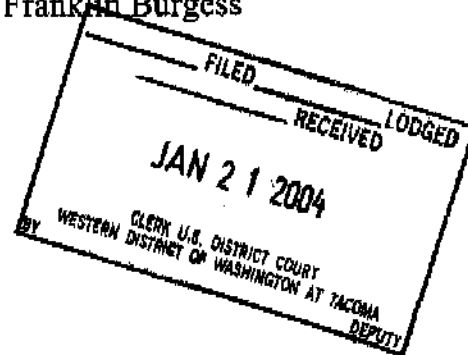


Judge Franklin Burgess



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL AIRGOOD,

Defendant.

NO. CR03-343FDB

PLEA AGREEMENT

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Kathryn A. Warma, Assistant United States Attorney for said District, and the defendant, MICHAEL AIRGOOD, and his attorney, Kenneth Sharaga, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. The Charge. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charges contained in the Second Superseding Indictment. By entering this plea of guilty, Defendant hereby waives all objections to the form of the charging document.

a. Interference with Commerce by Extortion, as charged in Counts 15, 20, 39, 44, 47, and 48, in violation of Title 18, United States Code, Sections 1951 and 2.



1 Defendant further understands that before entering his plea of guilty, Defendant
2 will be placed under oath. Any statement given by Defendant under oath may be used by
3 the government in a prosecution for perjury or false statement.

4
5 2. Elements of the Offense.

6 a. The elements of the offense of Interference with Commerce by
7 Extortion, as charged in Counts 15, 20, 39, 44, 47, and 48, in violation of Title 18, United
8 States Code, Sections 1951 and 2, are as follows:

9 First, Defendant induced a victim to part with property by wrongful
10 use or threat of force or fear;

11 Second, Defendant acted with intent to obtain property that Defendant
12 knew he was not entitled to receive; and

13 Third, interstate commerce was affected in some way.

14
15 3. The Penalties. Defendant understands that the statutory penalties for the
16 offense to which he is entering a plea of guilty are as follows:

17 a. Interference with Commerce by Extortion

- 18 1) imprisonment for up to twenty (20) years;
19 2) a fine of up to two hundred fifty thousand dollars
20 (\$250,000.00);
21 3) a period of supervision following release from prison of up to
22 three (3) years; and
23 4) a one hundred dollar (\$100.00) penalty assessment per count,
24 (totaling \$600.00), which assessment Defendant agrees shall be paid at or before the time
25 of sentencing.

26 Defendant understands that in addition to any term of imprisonment and/or
27 fine that is imposed, the Court may order Defendant to pay restitution to any victim of the
28 offense, as required by law.

1 Defendant agrees that any monetary penalty the Court imposes, including the
2 special assessment, fine, costs or restitution, is due and payable immediately, and further
3 agrees to submit a completed Financial Statement of Debtor form as requested by the
4 United States Attorney's Office.

5 Defendant understands that supervised release is a period of time following
6 imprisonment during which he will be subject to certain restrictions and requirements.
7 Defendant further understands that if supervised release is imposed and he violates one or
8 more of its conditions, he could be returned to prison for all or part of the term of
9 supervised release that was originally imposed. This could result in Defendant serving a
10 total term of imprisonment greater than the statutory maximum stated above.

11
12 4. Rights Waived by Pleading Guilty. Defendant understands that, by pleading
13 guilty, he knowingly and voluntarily waives the following rights:

- 14 a. The right to plead not guilty, and to persist in a plea of not guilty;
- 15 b. The right to a speedy and public trial before a jury of Defendant's
16 peers;
- 17 c. The right to the effective assistance of counsel at trial, including, if
18 Defendant could not afford an attorney, the right to have the Court appoint one for
19 Defendant;
- 20 d. The right to be presumed innocent until guilt has been established at
21 trial, beyond a reasonable doubt;
- 22 e. The right at trial to confront and cross-examine witnesses against
23 Defendant;
- 24 f. The right at trial to compel or subpoena witnesses to appear on
25 Defendant's behalf;
- 26 g. The right to testify or to remain silent at trial, at which trial such
27 silence could not be used against Defendant; and
- 28 h. The right to appeal a finding of guilt or any pretrial rulings.

1 5. Applicability of Sentencing Guidelines. Defendant understands and
2 acknowledges the following:

3 a. The United States Sentencing Guidelines, promulgated by the
4 United States Sentencing Commission, are applicable to this case;

5 b. The Court will determine Defendant's applicable Sentencing
6 Guidelines range at the time of sentencing;

7 c. The Court may impose any sentence authorized by law, including a
8 sentence that, under some circumstances, departs from any applicable Sentencing
9 Guidelines range up to the maximum term authorized by law;

10 d. The Court is not bound by any recommendation regarding the
11 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
12 range offered by the parties, or by the United States Probation Department; and

13 e. Defendant may not withdraw a guilty plea solely because of the
14 sentence imposed by the Court.

15
16 6. Ultimate Sentence. Defendant acknowledges that no one has promised or
17 guaranteed what sentence the Court will impose.

18
19 7. Statement of Facts. The parties agree on the following facts in support of
20 Defendant's guilty plea and for purposes of calculating the offense level of the Sentencing
21 Guidelines. Defendant admits he is guilty of the charged offense.

22 a. In May, 2002, ERIK DERI and TANYA DERI established a
23 household goods moving company that operated from offices in the Western District of
24 Washington (Kirkland and Woodinville, Washington). The moving company established
25 by ERIK DERI and TANYA DERI originally was named "NATIONWIDE MOVING
26 SYSTEMS, LLC," ("NATIONWIDE"), although the name of the company subsequently
27 was changed first to "Northstar Moving & Storage," and later to "American Star Moving
28 & Storage". Beginning in May of 2002, and continuing thereafter until July 15, 2003,

1 | NATIONWIDE, its officers and employees engaged in the interstate (and intrastate)
2 | transportation of household goods ("goods"), affecting interstate commerce.

3 | b. Prior to their move in 2002 to Washington State, ERIK DERI and
4 | TANYA DERI lived in Arizona, where they were friends and associates of MICHAEL
5 | AIRGOOD. ERIK DERI and MICHAEL AIRGOOD worked together, prior to May of
6 | 2002, for a household goods moving company based in Arizona. MICHAEL AIRGOOD
7 | moved from Arizona to Washington with ERIK DERI and TANYA DERI in about April
8 | of 2002 to work for the new moving company (NATIONWIDE) that ERIK DERI and
9 | TANYA DERI were establishing in the Western District of Washington in 2002.

10 | c. At the time MICHAEL AIRGOOD began working for NATIONWIDE
11 | and ERIK DERI and TANYA DERI, he believed that NATIONWIDE and ERIK DERI
12 | and TANYA DERI would operate legally and properly as a legitimate, licensed and
13 | authorized household goods moving company.

14 | d. Once MICHAEL AIRGOOD began working for NATIONWIDE,
15 | however, he became aware that ERIK DERI and TANYA DERI did not intend to operate
16 | NATIONWIDE legitimately as a household goods moving company; MICHAEL
17 | AIRGOOD also became aware, during May of 2002, that NATIONWIDE, and its owners
18 | ERIK DERI and TANYA DERI were extorting the customers of NATIONWIDE.

19 | e. NATIONWIDE, ERIK DERI, TANYA DERI, and others who
20 | worked as supervisors and foremen for NATIONWIDE extorted the customers by the
21 | following means, among others: Potential customers in need of moving services would
22 | contact NATIONWIDE seeking an estimate of the price NATIONWIDE would charge the
23 | customer for a move of household goods. NATIONWIDE would intentionally provide the
24 | potential customers with an inaccurately low estimate, in order to lure the customer into
25 | selecting NATIONWIDE as their moving company.

26 | Once a customer had hired NATIONWIDE based on the estimated low price for a
27 | move and a NATIONWIDE moving crew had arrived to pick up the customer's goods,
28 | however, the NATIONWIDE moving crew would use a variety of ruses and deceptive

1 techniques intended and designed to coerce the customer into paying a significantly higher
2 price for the moving services. These practice included, but were not limited to:
3 "underpacking" boxes and then charging the customer for unnecessary boxes and the
4 space they occupied on the moving truck; overcharging customers for packing supplies;
5 underpacking the moving trucks while "charging" for all cubic feet in the truck; falsifying
6 the capacity (cubic feet) of the truck; pressuring customers to sign blank bills of lading and
7 later adding false information; failing to weigh the moving trucks prior to pick-up, and
8 then threatening extra charges to the customer if the trucks were subsequently weighed.

9 After the customer's goods were loaded, and the moving truck door locked, the
10 foreman of the NATIONWIDE moving crew would tell the customer that the price for the
11 move would be two or three times (or more) higher than the price originally quoted. The
12 NATIONWIDE foreman would threaten the customer with the permanent loss of his/her
13 goods unless the higher price was paid. Customers consequently would pay the higher
14 prices fraudulently demanded by NATIONWIDE, with their consent to do so induced by
15 the threat or fear of the permanent loss of their household goods.

16 f. MICHAEL AIRGOOD worked for NATIONWIDE first as a packer,
17 and later as a moving crew foreman. His employment with NATIONWIDE began no later
18 than May of 2002, and continued until July 15, 2003. While performing his duties as a
19 packer and foreman for NATIONWIDE, MICHAEL AIRGOOD knowingly and willfully
20 participated in the various techniques and activities outlined above, and in that way
21 induced customers of NATIONWIDE to make payments to NATIONWIDE to which the
22 company was not legitimately entitled, and which payments were induced and coerced by
23 the threat to customers of the permanent loss of their household goods. MICHAEL
24 AIRGOOD engaged, specifically, in the following ruses and deceptive practices, among
25 others, in conjunction with the extortion of NATIONWIDE customers:

26 1) MICHAEL AIRGOOD knowingly and willfully
27 underpacked boxes of the NATIONWIDE customers, in order to deceive and overcharge
28

1 NATIONWIDE customers for unnecessary boxes, packing tape, and other packing
2 materials;

3 2) MICHAEL AIRGOOD knowingly and willfully
4 underpacked the NATIONWIDE moving trucks in order to deceive and overcharge
5 customers based on false representations that customers' goods occupied more cubic feet
6 on the moving trucks than they actually did;

7 3) MICHAEL AIRGOOD knowingly and willfully made
8 false statements and representations to customers about the capacity of NATIONWIDE
9 moving trucks in order to deceive and overcharge customers based on false representations
10 regarding the true volume of the customers' goods;

11 4) MICHAEL AIRGOOD knowingly and willfully
12 attempted to pressure NATIONWIDE customers into signing blank moving contracts or
13 bills of lading, in order to confuse the NATIONWIDE customers, prevent them from
14 reading and understanding the contracts, bills of lading, and other documents they signed,
15 and in order to use these documents later to facilitate the extortion of NATIONWIDE
16 customers;

17 5) MICHAEL AIRGOOD knowingly and willfully
18 participated in deceiving NATIONWIDE customers regarding the weighing of
19 NATIONWIDE moving trucks prior to the pick-up of the customers' household goods,
20 and was knowingly and willfully involved in efforts to falsify the weight of loaded
21 NATIONWIDE moving trucks;

22 6) MICHAEL AIRGOOD knowingly and willfully
23 participated, directly and indirectly, in demanding from NATIONWIDE customers that
24 they make payments to NATIONWIDE that NATIONWIDE was not legitimately entitled
25 to receive, and in threatening the customers with the permanent loss of their household
26 goods if they refused to pay the inflated payments that were demanded by NATIONWIDE;

g. Using these and other techniques, MICHAEL AIRGOOD interfered with interstate commerce by extortion on multiple occasions during the period from May of 2002 through and until July 15, 2003, including the six occasions of interstate moves as specified more fully below:

<u>COUNT</u>	<u>DATE</u>	<u>VICTIM</u>	<u>INTERSTATE MOVE AFFECTED</u>
15	8/15/02	T. & A.W.	goods loaded onto truck in Springfield, OR by NATIONWIDE moving crew; delivery destination: Ann Arbor, MI; NATIONWIDE demanded payment of \$3,915.00, instead of \$1,100.00
20	10/17/02	B.V.	Goods loaded onto truck in Portland, OR by NATIONWIDE moving crew; delivery destination: Canton, OH; NATIONWIDE demanded payment of \$4,500.00, instead of \$1,282.50
39	3/07/03	C.S.	Goods loaded onto truck in WA by NATIONWIDE moving crew; delivery destination: Lithia Springs, GA; NATIONWIDE demanded payment of \$6,000.00, instead of \$2,251.00
44	5/13/02	K. & D.B.	goods loaded onto truck in Bothell, WA by NATIONWIDE moving crew; delivery destination: Gottleettsville, TN; NATIONWIDE demanded payment of \$8,400.00, instead of \$3,780.00
47	6/27/03	N.K.	goods loaded onto truck in Seattle, WA by NATIONWIDE (dba AMERICAN STAR) moving crew; delivery destination: Las Vegas, NV; AMERICAN STAR crew demanded payment of \$2,830.00, instead of \$1,595.00
48	7/01/03	J.J.	goods loaded onto truck in Los Angeles, CA by NATIONWIDE (dba AMERICAN STAR) moving crew; delivery destination: San Antonio, TX; AMERICAN STAR demanded payment of \$3,400.00, instead of \$1,300.00

1 8. Loss Amount. The United States and Defendant agree that the loss amount
2 is in dispute and that the correct loss amount will be determined by the Court after hearing
3 arguments.

4
5 9. Restitution. Defendant shall make restitution to the victims and in the
6 amount ordered by the Court after hearing arguments. Said amount shall be due and
7 payable immediately and shall be paid in accordance with a schedule of payments as
8 ordered by the Court.

9
10 10. Non-Prosecution of Additional Offenses. As part of this Plea Agreement,
11 the United States Attorney's Office for the Western District of Washington agrees further,
12 not to prosecute Defendant for any additional offenses known to it as of the time of this
13 Agreement that are based upon evidence in its possession at this time, or that arise out of
14 the conduct giving rise to this investigation. In this regard, Defendant recognizes that the
15 United States has agreed not to prosecute all of the criminal charges that the evidence
16 establishes were committed by Defendant solely because of the promises made by
17 Defendant in this Agreement. Defendant acknowledges and agrees, however, that for
18 purposes of preparing the Presentence Report, the United States Attorney's Office will
19 provide the United States Probation Office with evidence of all relevant conduct
20 committed by Defendant.

21 Pursuant to this Plea Agreement, and conditioned on Defendant's fulfillment
22 of all of its conditions, the United States agrees to move the Court, at the time of
23 sentencing, to dismiss without prejudice as to Defendant Counts 1-14, 16-19, 21-38, 40-
24 43, 45-46, and 49 of the Second Superseding Indictment in No. CR03-343FDB.
25 Defendant agrees that, if the conviction is later dismissed or vacated, the dismissed counts
26 of the Second Superseding Indictment in No. CR03-343FDB may be reinstated.

27 Defendant agrees and acknowledges that any charges to be dismissed before
28 or at the time of sentencing were substantially justified in light of the evidence available to

1 the United States, were not vexatious, frivolous or taken in bad faith, and do not provide
2 Defendant with a basis for any future claims under the "Hyde Amendment," Pub.L. No.
3 105-119 (1997).

4
5 11. Acceptance of Responsibility. The United States acknowledges that if
6 Defendant qualifies for an acceptance of responsibility adjustment pursuant to USSG §
7 3E1.1(a) and if the offense level is sixteen (16) or greater, Defendant's total offense level
8 should be decreased by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because
9 Defendant has assisted the United States by timely notifying the authorities of his
10 intention to plead guilty, thereby permitting the United States to avoid preparing for trial
11 and permitting the Court to allocate its resources efficiently.

12
13 12. Cooperation.

14 a. Defendant shall cooperate completely and truthfully with law
15 enforcement authorities in the investigation and prosecution of other individuals involved
16 in criminal activity. Such cooperation shall include, but not be limited to, complete and
17 truthful statements to law enforcement officers, as well as complete and truthful testimony,
18 if called as a witness before a grand jury, or at any state or federal trial, retrial, or other
19 judicial proceedings. Defendant acknowledges that this obligation to cooperate shall
20 continue after Defendant has entered a guilty plea and sentence has been imposed, no
21 matter what sentence Defendant receives; Defendant's failure to do so may constitute a
22 breach of this Plea Agreement.

23 b. Defendant understands that the United States will tolerate no
24 deception from him. If, in the estimation of the United States Attorney, information or
25 testimony provided from the date of the Plea Agreement, proves to be untruthful or
26 incomplete in any way, regardless of whether the untruthfulness helps or hurts the United
27 States' case, the United States Attorney for the Western District of Washington may
28 consider that Defendant has breached this Plea Agreement.

1 c. The United States Attorney's Office for the Western District of
2 Washington, in turn, agrees not to prosecute Defendant for any other offenses, other than
3 crimes of violence, that Defendant may have committed in the Western District of
4 Washington prior to the date of this Agreement about which: (1) the United States
5 presently possesses information; or (2) Defendant provides information pursuant to this
6 Agreement to cooperate with the authorities.

7 d. The parties agree that information provided by Defendant in
8 connection with this Plea Agreement shall not be used to determine Defendant's sentence,
9 except to the extent permitted by USSG § 1B1.8.

10 e. In exchange for Defendant's cooperation, as described above, and
11 conditioned upon Defendant's fulfillment of all conditions of this Plea Agreement, the
12 United States Attorney agrees to consider filing a motion, pursuant to USSG § 5K1.1
13 permitting the Court to sentence Defendant to less than the otherwise applicable
14 Sentencing Guideline range.

15 f. Defendant agrees that his sentencing date may be delayed based on
16 the United States' need for his continued cooperation, and agrees not to object to any
17 continuances of his sentencing date sought by the United States.

18
19 13. Interdependence of Plea Agreements. The parties agree that this Plea
20 Agreement shall be conditioned upon the Court's acceptance of the Plea Agreement in the
21 matter of United States v. Kristen Klein, CR03-343FDB. Defendant understands,
22 therefore, that this Agreement is part of a package plea agreement with the United States,
23 to wit: if either Defendant or Kristen Klein does not enter into, and plead guilty pursuant
24 to his/her respective Plea Agreement, or if either Defendant or Kristen Klein subsequently
25 seeks to withdraw his/her guilty plea, then the United States will withdraw
26 both Plea Agreements and will proceed to prosecute both parties for all crimes for which
27 the United States has sufficient evidence.
28

1 14. Voluntariness of Plea. Defendant acknowledges that he has entered into this
2 Plea Agreement freely and voluntarily, and that no threats or promises, other than the
3 promises contained in this Plea Agreement, were made to induce Defendant to enter this
4 *plea of guilty.*

5
6 15. Statute of Limitations. In the event that this Agreement is not accepted by
7 the Court for any reason, or Defendant has breached any of the terms of this Plea
8 Agreement, the statute of limitations shall be deemed to have been tolled from the date of
9 the Plea Agreement to: (1) 30 days following the date of non-acceptance of the Plea
10 Agreement by the Court; or (2) 30 days following the date on which a breach of the Plea
11 Agreement by Defendant is discovered by the United States Attorney's Office.

12
13 16. Post-Plea Conduct. Defendant understands that the terms of this Plea
14 Agreement apply only to conduct that occurred prior to the execution of this Agreement.
15 If, after the date of this Agreement, Defendant should engage in conduct that would
16 warrant an increase in Defendant's adjusted offense level or justify an upward departure
17 under the Sentencing Guidelines (examples of which include, but are not limited to:
18 obstruction of justice, failure to appear for a court proceeding, criminal conduct while
19 pending sentencing, and false statements to law enforcement agents, the probation officer
20 or Court), the United States is free under this Agreement to seek a sentencing
21 enhancement or upward departure based on that conduct.

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